

HOUSE BILL NO. 426

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Delegate Bulova)

A BILL to amend and reenact §§ 4.1-204, 4.1-206.3, and 4.1-212.1, as they are currently effective and as they shall become effective, 4.1-230, 4.1-231.1, and 18.2-323.1 of the Code of Virginia and the second enactment of Chapter 281 and the second enactment of Chapter 282 of the Acts of Assembly of 2021, Special Session I, and to amend the Code of Virginia by adding a section numbered 4.1-212.2, relating to alcoholic beverage control; delivery of alcoholic beverages; third-party delivery license; container.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-204, 4.1-206.3, and 4.1-212.1, as they are currently effective and as they shall become effective, 4.1-230, 4.1-231.1, and 18.2-323.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-212.2 as follows:

§ 4.1-204. (Effective until July 1, 2022) Records of licensees; inspection of records and places of business.

A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by § 4.1-234 or 4.1-236, if any.

B. Retailers. — Every retail licensee shall keep complete, accurate, and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the

27 total price charged by him therefor. Except as otherwise provided in subsection D, such account need not
 28 give the names or addresses of the purchasers thereof, except as may be required by Board regulation for
 29 the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses that require sales of
 30 food to determine their qualifications for such licenses, the records shall also include purchases and sales
 31 of food and nonalcoholic beverages.

32 Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored
 33 off site, provided that such records are readily retrievable and available for electronic inspection by the
 34 Board or its special agents at the licensed premises. However, in the case that such electronic records are
 35 not readily available for electronic inspection on the licensed premises, the retail licensee may obtain
 36 Board approval, for good cause shown, to permit the retail licensee to provide the records to a special
 37 agent of the Board within three business days or less, as determined by the Board, after a request is made
 38 to inspect the records.

39 C. Common carriers. — Common carriers of passengers by train, boat, bus, or airplane shall keep
 40 records of purchases and sales of alcoholic beverages and food as required by Board regulation.

41 D. Wine and beer shippers. — Every wine and beer shipper licensee shall keep complete, accurate,
 42 and separate records in accordance with Board regulations of all shipments of wine or beer to persons in
 43 the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether
 44 any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine
 45 and beer sold and the total price charged for such wine and beer. Such records shall include the names and
 46 addresses of the purchasers to whom the wine and beer is shipped.

47 E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to §
 48 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in
 49 accordance with Board regulations of all deliveries of wine or beer alcoholic beverages to persons in the
 50 Commonwealth. Such records shall include (i) the brands types of wine and beer alcoholic beverages sold,
 51 (ii) the total quantities of wine and beer alcoholic beverages sold, (iii) the total price charged for such wine
 52 and beer, and alcoholic beverages, (iv) the names, addresses, and signatures of the purchasers name and
 53 date of birth of the person to whom the wine and beer is alcoholic beverages are delivered. Such purchaser

54 ~~signatures may be in an electronic format,~~ and (v) the address to which the alcoholic beverages are
55 delivered. Licensees and permittees shall remit such records on a monthly basis for any month during
56 which the licensee or permittee makes a delivery for which the licensee or permittee is required to collect
57 and remit excise taxes due to the Authority pursuant to subsection H of § 4.1-212.1.

58 Every licensee that is authorized to make deliveries pursuant to § 4.1-212.2 shall keep complete,
59 accurate, and separate records for a period of at least two years in accordance with Board regulations of
60 all deliveries of alcoholic beverages to persons in the Commonwealth. Such records shall include all
61 information prescribed by Board regulations. Licensees shall remit such records within 24 hours of a
62 records request by the Authority; however, the licensee may obtain Board approval, for good cause shown,
63 to permit the licensee to provide records to a special agent of the Board within three business days or less,
64 as determined by the Board, after a request is made to inspect the records.

65 F. Inspection. — The Board and its special agents shall be allowed free access during reasonable
66 hours to every place in the Commonwealth and to the premises of both (i) every wine and beer shipper
67 licensee and (ii) every licensee or permittee authorized to make deliveries wherever located where
68 alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of
69 examining and inspecting such place and all records, invoices and accounts therein. The Board may
70 engage the services of alcoholic beverage control authorities in any state to assist with the inspection of
71 the premises of a wine and beer shipper licensee, licensee or permittee authorized to make deliveries, or
72 any applicant for such license or permit.

73 For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means
74 the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public
75 substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee
76 is open to the public. At any other time of day, if the retail licensee's records are not available for
77 inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a
78 request is made to inspect the records.

79 **§ 4.1-204. (Effective July 1, 2022) Records of licensees; inspection of records and places of**
80 **business.**

81 A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler
82 shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic
83 beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by §
84 4.1-234 or 4.1-236, if any.

85 B. Retailers. — Every retail licensee shall keep complete, accurate, and separate records, in
86 accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such
87 licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee
88 shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He
89 shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the
90 total price charged by him therefor. Except as otherwise provided in subsection D, such account need not
91 give the names or addresses of the purchasers thereof, except as may be required by Board regulation for
92 the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses that require sales of
93 food to determine their qualifications for such licenses, the records shall also include purchases and sales
94 of food and nonalcoholic beverages.

95 Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored
96 off site, provided that such records are readily retrievable and available for electronic inspection by the
97 Board or its special agents at the licensed premises. However, in the case that such electronic records are
98 not readily available for electronic inspection on the licensed premises, the retail licensee may obtain
99 Board approval, for good cause shown, to permit the retail licensee to provide the records to a special
100 agent of the Board within three business days or less, as determined by the Board, after a request is made
101 to inspect the records.

102 C. Common carriers. — Common carriers of passengers by train, boat, bus, or airplane shall keep
103 records of purchases and sales of alcoholic beverages and food as required by Board regulation.

104 D. Wine and beer shippers. — Every wine and beer shipper licensee shall keep complete, accurate,
105 and separate records in accordance with Board regulations of all shipments of wine or beer to persons in
106 the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether
107 any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine

108 and beer sold and the total price charged for such wine and beer. Such records shall include the names and
109 addresses of the purchasers to whom the wine and beer is shipped.

110 E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to §
111 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in
112 accordance with Board regulations of all deliveries of wine or beer to persons in the Commonwealth. Such
113 records shall include (i) the ~~brands~~ types of wine and beer sold, (ii) the total quantities of wine and beer
114 sold, (iii) the total price charged for such wine and beer, ~~and~~ (iv) the ~~names, addresses, and signatures of~~
115 ~~the purchasers~~ name and date of birth of the person to whom the wine and beer is delivered. ~~Such purchaser~~
116 ~~signatures may be in an electronic format,~~ and (v) the address to which the wine and beer is delivered.
117 Licensees and permittees shall remit such records on a monthly basis for any month during which the
118 licensee or permittee makes a delivery for which the licensee or permittee is required to collect and remit
119 excise taxes due to the Authority pursuant to subsection E of § 4.1-212.1.

120 Every licensee that is authorized to make deliveries pursuant to § 4.1-212.2 shall keep complete,
121 accurate, and separate records for a period of at least two years in accordance with Board regulations of
122 all deliveries of alcoholic beverages to persons in the Commonwealth. Such records shall include all
123 information prescribed by Board regulations. Licensees shall remit such records within 24 hours of a
124 records request by the Authority; however, the licensee may obtain Board approval, for good cause shown,
125 to permit the licensee to provide records to a special agent of the Board within three business days or less,
126 as determined by the Board, after a request is made to inspect the records.

127 F. Inspection. — The Board and its special agents shall be allowed free access during reasonable
128 hours to every place in the Commonwealth and to the premises of both (i) every wine and beer shipper
129 licensee and (ii) every licensee or permittee authorized to make deliveries wherever located where
130 alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of
131 examining and inspecting such place and all records, invoices and accounts therein. The Board may
132 engage the services of alcoholic beverage control authorities in any state to assist with the inspection of
133 the premises of a wine and beer shipper licensee, licensee or permittee authorized to make deliveries, or
134 any applicant for such license or permit.

135 For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means
136 the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public
137 substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee
138 is open to the public. At any other time of day, if the retail licensee's records are not available for
139 inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a
140 request is made to inspect the records.

141 **§ 4.1-206.3. (Effective until July 1, 2022) Retail licenses.**

142 A. The Board may grant the following mixed beverages licenses:

143 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed
144 beverages for on-premises consumption in dining areas and other designated areas of such restaurant or
145 off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and
146 (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and
147 nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent
148 of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other
149 designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises,
150 which outdoor dining areas may have more than one means of ingress and egress to an adjacent public
151 thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such
152 noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision
153 A 5 of § 4.1-201.

154 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent
155 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,
156 bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed
157 beverages for on-premises consumption in such designated areas, bedrooms, and other private rooms or
158 off-premises consumption and (b) sell spirits packaged in original closed containers purchased from the
159 Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel
160 only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex,
161 the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within

162 the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from
163 keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

164 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club
165 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in
166 another city with which it has an agreement for reciprocal dining privileges, such license shall also
167 authorize the licensees to (1) sell and serve mixed beverages for on-premises or off-premises consumption
168 and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid
169 ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club
170 prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the
171 Board and located on another portion of the premises of the same hotel or motel building, this fact shall
172 not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's
173 gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its
174 members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts
175 from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be
176 excluded in any consideration of the qualifications of such restaurant for a license from the Board.

177 If the restaurant is located on the premises of and operated by a municipal golf course, the Board
178 shall recognize the seasonal nature of the business and waive any applicable monthly food sales
179 requirements for those months when weather conditions may reduce patronage of the golf course, provided
180 that prepared food, including meals, is available to patrons during the same months. The gross receipts
181 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages
182 served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross
183 receipts from the sale of mixed beverages and food on an annualized basis.

184 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license
185 shall authorize the licensee to (A) sell alcoholic beverages, without regard to the amount of gross receipts
186 from the sale of food prepared and consumed on the premises, for off-premises consumption or for on-
187 premises consumption in areas upon the licensed premises approved by the Board and other designated
188 areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession

189 and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being
190 provided in bedrooms and private guest rooms.

191 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to
192 obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for
193 off-premises consumption; however, the licensee shall be required to pay the local fee required for such
194 additional license pursuant to § 4.1-233.1.

195 2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in
196 the business of providing food and beverages to others for service at private gatherings or at special events,
197 which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The
198 annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages
199 served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the
200 gross receipts from the sale of mixed beverages and food.

201 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly
202 engaged in the business of providing food and beverages to others for service at private gatherings or at
203 special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell
204 and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of
205 food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred
206 to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed
207 beverages and food.

208 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,
209 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in
210 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated
211 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its
212 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier
213 licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and
214 to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic
215 beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air

216 carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic
217 beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the
218 air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be
219 transported, stored, and delivered by its authorized representative. The granting of a license pursuant to
220 this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and
221 beer for on-premises consumption or in closed containers for off-premises consumption; however, the
222 licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

223 5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell
224 mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during
225 scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all
226 dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-
227 premises consumption. Such license may be granted to persons operating food concessions at an outdoor
228 motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a
229 track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of
230 the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
231 premises in all areas and locations covered by the license. The granting of a license pursuant to this
232 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer
233 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee
234 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

235 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve
236 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs
237 shall be combined with coffee or other nonalcoholic beverages, for on-premises consumption in dining
238 areas of the restaurant or off-premises consumption. Such license may be granted only to persons who
239 operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the
240 sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and
241 alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize
242 the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed

243 containers for off-premises consumption; however, the licensee shall be required to pay the local fee
244 required for such additional license pursuant to § 4.1-233.1.

245 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee
246 to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable
247 containers or in single original metal cans for on-premises consumption in all seating areas, concourses,
248 walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the
249 Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for
250 on-premises consumption or in closed containers for off-premises consumption; however, the licensee
251 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such
252 licenses may be granted to the following:

253 a. Corporations or associations operating a performing arts facility, provided the performing arts
254 facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease,
255 the original term of which was for more than one year's duration; and (iii) has been rehabilitated in
256 accordance with historic preservation standards;

257 b. Persons operating food concessions at any performing arts facility located in the City of Norfolk
258 or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-
259 term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity
260 in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards;
261 and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the
262 premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum
263 established by Board regulations for mixed beverage restaurants;

264 c. Persons operating food concessions at any performing arts facility located in the City of
265 Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease
266 or concession agreement, the original term of which was more than five years; (ii) has a total capacity in
267 excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

268 d. Persons operating food concessions at any performing arts facility located in the arts and cultural
269 district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona

270 fide long-term lease or concession agreement, the original term of which was more than five years; (ii)
271 has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts
272 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages
273 served on the premises that meet or exceed the monthly minimum established by Board regulations for
274 mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

275 e. Persons operating food concessions at any multipurpose theater located in the historical district
276 of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity
277 and (ii) has a total capacity in excess of 100 patrons;

278 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or
279 similar facility that has seating for more than 20,000 persons and is located in Prince William County or
280 the City of Virginia Beach;

281 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or
282 similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the
283 City of Portsmouth; or

284 h. Persons operating food concessions at any corporate and performing arts facility located in
285 Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide
286 long-term lease, management, or concession agreement, the original term of which was more than one
287 year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the
288 dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the
289 licensed premises approved by the Board.

290 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any
291 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to
292 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and
293 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed
294 beverage caterer at the same business premises designated in the license, with a common alcoholic
295 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the
296 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision

297 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this
298 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer
299 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee
300 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

301 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages
302 in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is
303 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and
304 without regard to the amount of gross receipts from the sale of food prepared and consumed on the
305 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom
306 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas
307 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes
308 outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one
309 means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas
310 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
311 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

312 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under §
313 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption
314 of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and
315 guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member
316 and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the
317 licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied
318 and utilized as such.

319 11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the
320 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof
321 during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or
322 indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's
323 premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

324 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'
325 association governing a commercial lifestyle center, which shall authorize any retail on-premises
326 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any
327 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of
328 the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,
329 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant
330 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such
331 tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises
332 restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and
333 such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the
334 name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic
335 beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The
336 licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed
337 premises; however, no physical barriers shall be required for this purpose. The licensee shall provide
338 adequate security for the licensed premises to ensure compliance with the applicable provisions of this
339 title and Board regulations.

340 13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve
341 mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such
342 license may be granted only to persons operating a business (i) that is primarily engaged in the sale of
343 meals; (ii) that is located on property owned by the United States government or an agency thereof and
344 used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of
345 food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the
346 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale
347 of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include
348 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may
349 have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas
350 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas

351 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting
352 of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to
353 sell and serve wine and beer for on-premises consumption or in closed containers for off-premises
354 consumption; however, the licensee shall be required to pay the local fee required for such additional
355 license pursuant to § 4.1-233.1.

356 14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or
357 association operating either a performing arts facility or an art education and exhibition facility; (ii) a
358 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and
359 objects significant in American history and culture; (iii) persons operating an agricultural event and
360 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space
361 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped
362 with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events
363 conducted on the premises of a museum for historic interpretation that is owned and operated by the
364 locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a
365 bona fide lease, the original term of which was for more than one year's duration. Such license shall
366 authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-
367 premises consumption in areas upon the licensed premises approved by the Board.

368 B. The Board may grant an on-and-off-premises wine and beer license to the following:

369 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in
370 closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without
371 meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest
372 rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas.
373 However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize
374 the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate
375 by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic
376 beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight
377 lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the

378 amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at
379 least one meal is provided each day by the hotel to such guests. With regard to facilities registered in
380 accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are
381 also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee,
382 keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by
383 the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas,
384 whether or not contiguous to the licensed premises, which may have more than one means of ingress and
385 egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control
386 of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved
387 for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

388 2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients
389 for their on-premises consumption only in such rooms, provided the consent of the patient's attending
390 physician is first obtained or (ii) in closed containers for off-premises consumption.

391 3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises
392 consumption or in closed containers for off-premises consumption. No license shall be granted unless (i)
393 the grocery store is located in any town or in a rural area outside the corporate limits of any city or town
394 and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists
395 and that public convenience and the purposes of this title will be promoted by granting the license.

396 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer
397 during any event and immediately subsequent thereto to patrons within all seating areas, concourses,
398 walkways, concession areas, and additional locations designated by the Board (i) in closed containers for
399 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original
400 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and
401 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered
402 by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums,
403 racetracks, or similar facilities.

404 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer
405 during the performance of any event to patrons within all seating areas, concourses, walkways, or
406 concession areas, or other areas approved by the Board (i) in closed containers for off-premises
407 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for
408 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own
409 lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.
410 Such licenses may be granted to persons operating food concessions at any outdoor performing arts
411 amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in
412 Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500
413 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or
414 Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500
415 persons and is located in Henrico County.

416 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to
417 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,
418 and such additional locations designated by the Board in such facilities (i) in closed containers for off-
419 premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal
420 cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume
421 his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the
422 license. Such licenses may be granted to persons operating food concessions at exhibition or exposition
423 halls, convention centers, or similar facilities located in any county operating under the urban county
424 executive form of government or any city that is completely surrounded by such county. For purposes of
425 this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting
426 private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet
427 of floor space.

428 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during
429 events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession
430 areas, dining areas, and such additional locations designated by the Board in such facilities, for on-

431 premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to
432 this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such
433 licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural
434 Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

435 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or
436 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be
437 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The
438 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied
439 and utilized as such.

440 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises
441 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such
442 licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3)
443 of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the
444 consuming public about historic beer products. The privileges of this license shall be limited to the
445 premises of the museum, regularly occupied and utilized as such.

446 C. The Board may grant the following off-premises wine and beer licenses:

447 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery
448 store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina
449 store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine
450 and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-
451 308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-
452 premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine
453 and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The
454 licensee may also give samples of wine and beer in designated areas at events held by the licensee for the
455 purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With
456 the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or
457 authorized representatives of such licensees may participate in such tastings, including the pouring of

458 samples. The licensee shall comply with any food inventory and sales volume requirements established
459 by Board regulation.

460 2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom
461 wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging,
462 and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for
463 off-premises consumption in accordance with subdivision 6 of § 4.1-200.

464 3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed
465 premises for off-premises consumption confectionery that contains five percent or less alcohol by volume.
466 Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is
467 sold.

468 D. The Board may grant the following banquet, special event, and tasting licenses:

469 1. Per-day event licenses.

470 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations
471 or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer
472 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or
473 areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be
474 authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises
475 consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such
476 fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship
477 such wine, in accordance with Board regulations, in closed containers to persons located within the
478 Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each
479 banquet or special event. For the purposes of this subdivision, when the location named in the original
480 application for a license is outdoors, the application may also name an alternative location in the event of
481 inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a
482 retail wine and beer license.

483 b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association
484 in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-

485 premises consumption in areas approved by the Board on the premises of the place designated in the
486 license. A separate license shall be required for each day of each special event.

487 c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall
488 authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members
489 and their guests in areas approved by the Board on the club premises. A separate license shall be required
490 for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar
491 year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to
492 obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall
493 be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

494 d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages
495 of the type specified in the license in designated areas at events held by the licensee. A tasting license
496 shall be issued for the purpose of featuring and educating the consuming public about the alcoholic
497 beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting
498 license shall be required for conduct authorized by § 4.1-201.1.

499 2. Annual licenses.

500 a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable
501 membership organizations that are exempt from state and federal taxation and in charge of banquets
502 conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and
503 beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms
504 or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.
505 For the purposes of this subdivision, when the location named in the original application for a license is
506 outdoors, the application may also name an alternative location in the event of inclement weather.
507 However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer
508 license.

509 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical
510 services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired
511 alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests

512 thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall
513 not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use
514 the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency
515 station or both, regularly occupied as such and recognized by the governing body of the county, city, or
516 town in which it is located. Under conditions as specified by Board regulation, such premises may be other
517 than a volunteer fire or volunteer emergency medical services agency station, provided such other
518 premises are occupied and under the control of the volunteer fire department or volunteer emergency
519 medical services agency while the privileges of its license are being exercised.

520 c. Designated outdoor refreshment area licenses to a locality, business improvement district, or
521 nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic
522 beverages within the area designated by the Board for the designated outdoor refreshment area and (ii)
523 any permanent retail on-premises licensee that is located within the area designated by the Board for the
524 designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for
525 consumption in the area designated for the designated outdoor refreshment area, including sidewalks and
526 the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such
527 businesses. In determining the designated area for the designated outdoor refreshment area, the Board
528 shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events
529 per year, and the duration of any event shall not exceed three consecutive days. However, the Board may
530 increase the frequency and duration of events after adoption of an ordinance by a locality requesting such
531 increase in frequency and duration. Such ordinance shall include the size and scope of the area within
532 which such events will be held, a public safety plan, and any other considerations deemed necessary by
533 the Board. Such limitations on the number of events that may be held shall not apply during the effective
534 dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet
535 a public health emergency and that effectively reduces allowable restaurant seating capacity; however,
536 designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this
537 title and Board regulations and shall provide notice to the Board regarding the days and times during
538 which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent

539 retail on-premises licensees located within the designated area may be consumed at the event, and such
540 alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly
541 display the name or logo of the retail on-premises licensee from which the alcoholic beverage was
542 purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor
543 refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage
544 clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be
545 required for this purpose. The designated outdoor refreshment area licensee shall provide adequate
546 security for the event to ensure compliance with the applicable provisions of this title and Board
547 regulations.

548 d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic,
549 or charitable membership organizations that are exempt from state and federal taxation and in charge of
550 banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve
551 mixed beverages for on-premises consumption in areas approved by the Board on the premises of the
552 place designated in the license. Such license shall authorize the licensee to conduct no more than 12
553 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically
554 authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption;
555 however, the licensee shall be required to pay the local fee required for such additional license pursuant
556 to § 4.1-233.1.

557 e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt,
558 and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired
559 alcoholic beverages on the premises of the licensee by patrons thereof during such event. However,
560 alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this
561 license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian,
562 hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

563 f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the
564 licensee participating in a community art walk that is open to the public to serve lawfully acquired wine
565 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic

566 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the
567 licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any
568 one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue
569 regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

570 E. The Board may grant a marketplace license to persons operating a business enterprise of which
571 the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve
572 complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations
573 imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or
574 two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such
575 customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace
576 license, the applicant's business enterprise must (i) provide a single category of goods or services in a
577 manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in
578 such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic
579 beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all
580 employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to
581 be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the
582 Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average
583 amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of
584 time that the business has been in operation; and (d) any other requirements deemed necessary by the
585 Board to protect the public health, safety, and welfare.

586 F. The Board may grant the following shipper, bottler, and related licenses:

587 1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in §
588 4.1-209.1.

589 2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside
590 the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations,
591 in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for

592 off-premises consumption. Such licensee shall not be required to comply with the monthly food sale
593 requirement established by Board regulations.

594 3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and
595 shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board
596 regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under
597 the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons
598 outside the Commonwealth for resale outside the Commonwealth.

599 4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with
600 a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer
601 owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner;
602 and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board
603 regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or
604 not, or any person under common control of such licensee, shall acquire or hold any financial interest,
605 direct or indirect, in the business for which any fulfillment warehouse license is issued.

606 5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized
607 under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of
608 business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders
609 for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer
610 may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order
611 for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment.
612 Marketing portal licensees may also accept payment on behalf of the shipper.

613 6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-
614 212.2.

615 **§ 4.1-206.3. (Effective July 1, 2022) Retail licenses.**

616 A. The Board may grant the following mixed beverages licenses:

617 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed
618 beverages for consumption in dining areas and other designated areas of such restaurant. Such license may

619 be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food
620 cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises,
621 after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed
622 beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor
623 dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have
624 more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are
625 under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall
626 not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

627 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent
628 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,
629 bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed
630 beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits
631 packaged in original closed containers purchased from the Board for on-premises consumption to
632 registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private
633 rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale
634 and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed
635 appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own
636 lawfully acquired spirits in bedrooms or private rooms.

637 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club
638 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in
639 another city with which it has an agreement for reciprocal dining privileges, such license shall also
640 authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell
641 spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50
642 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food
643 in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located
644 on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the
645 granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts

646 from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and
647 guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale
648 of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any
649 consideration of the qualifications of such restaurant for a license from the Board.

650 If the restaurant is located on the premises of and operated by a municipal golf course, the Board
651 shall recognize the seasonal nature of the business and waive any applicable monthly food sales
652 requirements for those months when weather conditions may reduce patronage of the golf course, provided
653 that prepared food, including meals, is available to patrons during the same months. The gross receipts
654 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages
655 served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross
656 receipts from the sale of mixed beverages and food on an annualized basis.

657 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license
658 shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard
659 to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas
660 upon the licensed premises approved by the Board and other designated areas of the resort, including
661 outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully
662 acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and
663 private guest rooms.

664 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to
665 obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for
666 off-premises consumption; however, the licensee shall be required to pay the local fee required for such
667 additional license pursuant to § 4.1-233.1.

668 2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in
669 the business of providing food and beverages to others for service at private gatherings or at special events,
670 which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The
671 annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages

672 served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the
673 gross receipts from the sale of mixed beverages and food.

674 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly
675 engaged in the business of providing food and beverages to others for service at private gatherings or at
676 special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell
677 and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of
678 food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred
679 to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed
680 beverages and food.

681 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,
682 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in
683 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated
684 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its
685 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier
686 licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and
687 to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic
688 beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air
689 carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic
690 beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the
691 air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be
692 transported, stored, and delivered by its authorized representative. The granting of a license pursuant to
693 this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and
694 beer for on-premises consumption or in closed containers for off-premises consumption; however, the
695 licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

696 5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell
697 mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during
698 scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all

699 dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-
700 premises consumption. Such license may be granted to persons operating food concessions at an outdoor
701 motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a
702 track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of
703 the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
704 premises in all areas and locations covered by the license. The granting of a license pursuant to this
705 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer
706 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee
707 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

708 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve
709 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs
710 shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the
711 restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the
712 sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed
713 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license
714 pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve
715 wine and beer for on-premises consumption or in closed containers for off-premises consumption;
716 however, the licensee shall be required to pay the local fee required for such additional license pursuant
717 to § 4.1-233.1.

718 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee
719 to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable
720 containers or in single original metal cans for on-premises consumption in all seating areas, concourses,
721 walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the
722 Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for
723 on-premises consumption or in closed containers for off-premises consumption; however, the licensee
724 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such
725 licenses may be granted to the following:

726 a. Corporations or associations operating a performing arts facility, provided the performing arts
727 facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease,
728 the original term of which was for more than one year's duration; and (iii) has been rehabilitated in
729 accordance with historic preservation standards;

730 b. Persons operating food concessions at any performing arts facility located in the City of Norfolk
731 or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-
732 term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity
733 in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards;
734 and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the
735 premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum
736 established by Board regulations for mixed beverage restaurants;

737 c. Persons operating food concessions at any performing arts facility located in the City of
738 Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease
739 or concession agreement, the original term of which was more than five years; (ii) has a total capacity in
740 excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

741 d. Persons operating food concessions at any performing arts facility located in the arts and cultural
742 district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona
743 fide long-term lease or concession agreement, the original term of which was more than five years; (ii)
744 has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts
745 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages
746 served on the premises that meet or exceed the monthly minimum established by Board regulations for
747 mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

748 e. Persons operating food concessions at any multipurpose theater located in the historical district
749 of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity
750 and (ii) has a total capacity in excess of 100 patrons;

751 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or
752 similar facility that has seating for more than 20,000 persons and is located in Prince William County or
753 the City of Virginia Beach;

754 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or
755 similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the
756 City of Portsmouth; or

757 h. Persons operating food concessions at any corporate and performing arts facility located in
758 Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide
759 long-term lease, management, or concession agreement, the original term of which was more than one
760 year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the
761 dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the
762 licensed premises approved by the Board.

763 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any
764 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to
765 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and
766 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed
767 beverage caterer at the same business premises designated in the license, with a common alcoholic
768 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the
769 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision
770 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this
771 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer
772 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee
773 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

774 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages
775 in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is
776 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and
777 without regard to the amount of gross receipts from the sale of food prepared and consumed on the

778 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom
779 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas
780 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes
781 outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one
782 means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas
783 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
784 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

785 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under §
786 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption
787 of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and
788 guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member
789 and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the
790 licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied
791 and utilized as such.

792 11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the
793 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof
794 during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or
795 indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's
796 premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

797 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'
798 association governing a commercial lifestyle center, which shall authorize any retail on-premises
799 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any
800 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of
801 the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,
802 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant
803 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such
804 tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises

805 restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and
806 such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the
807 name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic
808 beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The
809 licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed
810 premises; however, no physical barriers shall be required for this purpose. The licensee shall provide
811 adequate security for the licensed premises to ensure compliance with the applicable provisions of this
812 title and Board regulations.

813 13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve
814 mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such
815 license may be granted only to persons operating a business (i) that is primarily engaged in the sale of
816 meals; (ii) that is located on property owned by the United States government or an agency thereof and
817 used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of
818 food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the
819 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale
820 of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include
821 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may
822 have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas
823 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
824 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting
825 of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to
826 sell and serve wine and beer for on-premises consumption or in closed containers for off-premises
827 consumption; however, the licensee shall be required to pay the local fee required for such additional
828 license pursuant to § 4.1-233.1.

829 14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or
830 association operating either a performing arts facility or an art education and exhibition facility; (ii) a
831 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and

832 objects significant in American history and culture; (iii) persons operating an agricultural event and
833 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space
834 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped
835 with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events
836 conducted on the premises of a museum for historic interpretation that is owned and operated by the
837 locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a
838 bona fide lease, the original term of which was for more than one year's duration. Such license shall
839 authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-
840 premises consumption in areas upon the licensed premises approved by the Board.

841 B. The Board may grant an on-and-off-premises wine and beer license to the following:

842 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in
843 closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without
844 meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest
845 rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas.
846 However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize
847 the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate
848 by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic
849 beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight
850 lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the
851 amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at
852 least one meal is provided each day by the hotel to such guests. With regard to facilities registered in
853 accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are
854 also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee,
855 keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by
856 the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas,
857 whether or not contiguous to the licensed premises, which may have more than one means of ingress and
858 egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control

859 of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved
860 for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

861 2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients
862 for their on-premises consumption only in such rooms, provided the consent of the patient's attending
863 physician is first obtained or (ii) in closed containers for off-premises consumption.

864 3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises
865 consumption or in closed containers for off-premises consumption. No license shall be granted unless (i)
866 the grocery store is located in any town or in a rural area outside the corporate limits of any city or town
867 and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists
868 and that public convenience and the purposes of this title will be promoted by granting the license.

869 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer
870 during any event and immediately subsequent thereto to patrons within all seating areas, concourses,
871 walkways, concession areas, and additional locations designated by the Board (i) in closed containers for
872 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original
873 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and
874 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered
875 by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums,
876 racetracks, or similar facilities.

877 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer
878 during the performance of any event to patrons within all seating areas, concourses, walkways, or
879 concession areas, or other areas approved by the Board (i) in closed containers for off-premises
880 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for
881 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own
882 lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.
883 Such licenses may be granted to persons operating food concessions at any outdoor performing arts
884 amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in
885 Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500

886 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or
887 Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500
888 persons and is located in Henrico County.

889 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to
890 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,
891 and such additional locations designated by the Board in such facilities (i) in closed containers for off-
892 premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal
893 cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume
894 his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the
895 license. Such licenses may be granted to persons operating food concessions at exhibition or exposition
896 halls, convention centers, or similar facilities located in any county operating under the urban county
897 executive form of government or any city that is completely surrounded by such county. For purposes of
898 this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting
899 private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet
900 of floor space.

901 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during
902 events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession
903 areas, dining areas, and such additional locations designated by the Board in such facilities, for on-
904 premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to
905 this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such
906 licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural
907 Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

908 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or
909 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be
910 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The
911 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied
912 and utilized as such.

913 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises
914 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such
915 licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3)
916 of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the
917 consuming public about historic beer products. The privileges of this license shall be limited to the
918 premises of the museum, regularly occupied and utilized as such.

919 C. The Board may grant the following off-premises wine and beer licenses:

920 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery
921 store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina
922 store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine
923 and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-
924 308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-
925 premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine
926 and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The
927 licensee may also give samples of wine and beer in designated areas at events held by the licensee for the
928 purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With
929 the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or
930 authorized representatives of such licensees may participate in such tastings, including the pouring of
931 samples. The licensee shall comply with any food inventory and sales volume requirements established
932 by Board regulation.

933 2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom
934 wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging,
935 and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for
936 off-premises consumption in accordance with subdivision 6 of § 4.1-200.

937 3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed
938 premises for off-premises consumption confectionery that contains five percent or less alcohol by volume.

939 Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is
940 sold.

941 D. The Board may grant the following banquet, special event, and tasting licenses:

942 1. Per-day event licenses.

943 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations
944 or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer
945 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or
946 areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be
947 authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises
948 consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such
949 fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship
950 such wine, in accordance with Board regulations, in closed containers to persons located within the
951 Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each
952 banquet or special event. For the purposes of this subdivision, when the location named in the original
953 application for a license is outdoors, the application may also name an alternative location in the event of
954 inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a
955 retail wine and beer license.

956 b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association
957 in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-
958 premises consumption in areas approved by the Board on the premises of the place designated in the
959 license. A separate license shall be required for each day of each special event.

960 c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall
961 authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members
962 and their guests in areas approved by the Board on the club premises. A separate license shall be required
963 for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar
964 year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to

965 obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall
966 be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

967 d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages
968 of the type specified in the license in designated areas at events held by the licensee. A tasting license
969 shall be issued for the purpose of featuring and educating the consuming public about the alcoholic
970 beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting
971 license shall be required for conduct authorized by § 4.1-201.1.

972 2. Annual licenses.

973 a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable
974 membership organizations that are exempt from state and federal taxation and in charge of banquets
975 conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and
976 beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms
977 or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.
978 For the purposes of this subdivision, when the location named in the original application for a license is
979 outdoors, the application may also name an alternative location in the event of inclement weather.
980 However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer
981 license.

982 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical
983 services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired
984 alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests
985 thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall
986 not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use
987 the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency
988 station or both, regularly occupied as such and recognized by the governing body of the county, city, or
989 town in which it is located. Under conditions as specified by Board regulation, such premises may be other
990 than a volunteer fire or volunteer emergency medical services agency station, provided such other

991 premises are occupied and under the control of the volunteer fire department or volunteer emergency
992 medical services agency while the privileges of its license are being exercised.

993 c. Designated outdoor refreshment area licenses to a locality, business improvement district, or
994 nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic
995 beverages within the area designated by the Board for the designated outdoor refreshment area and (ii)
996 any permanent retail on-premises licensee that is located within the area designated by the Board for the
997 designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for
998 consumption in the area designated for the designated outdoor refreshment area, including sidewalks and
999 the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such
1000 businesses. In determining the designated area for the designated outdoor refreshment area, the Board
1001 shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events
1002 per year, and the duration of any event shall not exceed three consecutive days. However, the Board may
1003 increase the frequency and duration of events after adoption of an ordinance by a locality requesting such
1004 increase in frequency and duration. Such ordinance shall include the size and scope of the area within
1005 which such events will be held, a public safety plan, and any other considerations deemed necessary by
1006 the Board. Such limitations on the number of events that may be held shall not apply during the effective
1007 dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet
1008 a public health emergency and that effectively reduces allowable restaurant seating capacity; however,
1009 designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this
1010 title and Board regulations and shall provide notice to the Board regarding the days and times during
1011 which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent
1012 retail on-premises licensees located within the designated area may be consumed at the event, and such
1013 alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly
1014 display the name or logo of the retail on-premises licensee from which the alcoholic beverage was
1015 purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor
1016 refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage
1017 clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be

1018 required for this purpose. The designated outdoor refreshment area licensee shall provide adequate
1019 security for the event to ensure compliance with the applicable provisions of this title and Board
1020 regulations.

1021 d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic,
1022 or charitable membership organizations that are exempt from state and federal taxation and in charge of
1023 banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve
1024 mixed beverages for on-premises consumption in areas approved by the Board on the premises of the
1025 place designated in the license. Such license shall authorize the licensee to conduct no more than 12
1026 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically
1027 authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption;
1028 however, the licensee shall be required to pay the local fee required for such additional license pursuant
1029 to § 4.1-233.1.

1030 e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt,
1031 and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired
1032 alcoholic beverages on the premises of the licensee by patrons thereof during such event. However,
1033 alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this
1034 license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian,
1035 hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

1036 f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the
1037 licensee participating in a community art walk that is open to the public to serve lawfully acquired wine
1038 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic
1039 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the
1040 licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any
1041 one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue
1042 regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

1043 E. The Board may grant a marketplace license to persons operating a business enterprise of which
1044 the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve

1045 complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations
1046 imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or
1047 two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such
1048 customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace
1049 license, the applicant's business enterprise must (i) provide a single category of goods or services in a
1050 manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in
1051 such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic
1052 beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all
1053 employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to
1054 be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the
1055 Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average
1056 amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of
1057 time that the business has been in operation; and (d) any other requirements deemed necessary by the
1058 Board to protect the public health, safety, and welfare.

1059 F. The Board may grant the following shipper, bottler, and related licenses:

1060 1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in §
1061 4.1-209.1.

1062 2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside
1063 the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations,
1064 in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for
1065 off-premises consumption. Such licensee shall not be required to comply with the monthly food sale
1066 requirement established by Board regulations.

1067 3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and
1068 shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board
1069 regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under
1070 the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons
1071 outside the Commonwealth for resale outside the Commonwealth.

1072 4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with
1073 a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer
1074 owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner;
1075 and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board
1076 regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or
1077 not, or any person under common control of such licensee, shall acquire or hold any financial interest,
1078 direct or indirect, in the business for which any fulfillment warehouse license is issued.

1079 5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized
1080 under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of
1081 business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders
1082 for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer
1083 may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order
1084 for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment.
1085 Marketing portal licensees may also accept payment on behalf of the shipper.

1086 6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-
1087 212.2.

1088 **§ 4.1-212.1. (Effective until July 1, 2022) Delivery of wine and beer; kegs; regulations of**
1089 **Board.**

1090 A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is
1091 authorized to engage in the retail sale of wine or beer for off-premises consumption may deliver the brands
1092 of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers
1093 to consumers within the Commonwealth for personal off-premises consumption.

1094 B. Any person licensed to sell wine and beer at retail for off-premises consumption in the
1095 Commonwealth, and who is not a brewery, winery, or farm winery, may deliver the brands of beer, wine,
1096 and farm wine it is authorized to sell in closed containers to consumers within the Commonwealth for
1097 personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries
1098 may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises

1099 where such person has electronically ordered beer, wine, or farm wine in advance of the delivery or (ii)
1100 such other locations as may be permitted by Board regulation.

1101 C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail
1102 for off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery,
1103 may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm
1104 wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the
1105 Commonwealth for personal off-premises consumption.

1106 D. Any person licensed to sell mixed beverages at retail for off-premises consumption in the
1107 Commonwealth may deliver any mixed beverages it is authorized to sell in closed containers to consumers
1108 within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law
1109 to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking
1110 area of the licensee's premises where such person has electronically ordered mixed beverages in advance
1111 of the delivery or (ii) such other locations as may be permitted by Board regulation.

1112 E. Any distiller that has been appointed as an agent of the Board pursuant to subsection D of § 4.1-
1113 119 may deliver to consumers within the Commonwealth for personal consumption any alcoholic
1114 beverages the distiller is authorized to sell through organized tasting events in accordance with subsection
1115 G of § 4.1-119 and Board regulations. Notwithstanding any provision of law to the contrary, such
1116 deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's
1117 premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii)
1118 such other locations as may be permitted by Board regulation.

1119 F. All deliveries made pursuant to this section shall be to consumers within the Commonwealth
1120 for personal consumption only and not for resale. Such deliveries shall be performed by either (i) the
1121 owner or any ~~agent~~, officer, director, shareholder, or employee of the licensee or permittee or (ii) ~~an~~
1122 ~~independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has entered~~
1123 ~~into a written agreement with the independent contractor establishing that the licensee or permittee shall~~
1124 ~~be vicariously a third-party delivery licensee pursuant to § 4.1-212.2. The licensee performing the delivery~~
1125 shall be liable for any administrative violations of this section or § 4.1-304 committed ~~by the independent~~

1126 ~~contractor relating to any deliveries of alcoholic beverages made on behalf of the licensee or permittee~~
1127 ~~and (b) only during transport through completion of the delivery. Alcoholic beverages shall not be~~
1128 ~~delivered after 11:00 p.m. or before 6:00 a.m. Only one individual takes may take possession of the~~
1129 alcoholic beverages during the course of the delivery. No more than four cases of wine nor more than four
1130 cases of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be
1131 lawfully sold, except that the licensee or permittee may deliver more than four cases of wine or more than
1132 four cases of beer if he notifies the Authority in writing at least one business day in advance of any such
1133 delivery, which notice contains the name and address of the intended recipient. Except as otherwise
1134 provided in this subtitle, alcoholic beverages sold for off-premises consumption or delivered pursuant to
1135 this section that are not in the manufacturer's original sealed container shall (a) be enclosed in a container
1136 that has no straw holes or other openings and is sealed in a manner that allows a person to readily discern
1137 whether the container has been opened or tampered with subsequent to its original closure; (b) display the
1138 name of the licensee from which the alcoholic beverages were purchased; (c) be clearly marked with the
1139 phrase "contains alcoholic beverages"; (d) in the case of wine, beer, or, if purchased from a mixed
1140 beverage restaurant or limited mixed beverage restaurant licensee, mixed beverages, have a maximum
1141 volume of 16 ounces per beverage; and (e) during delivery, be stored (1) in the trunk of the vehicle, (2) in
1142 an area that is rear of the driver's seat, (3) in a locked container or compartment, or (4) in the case of
1143 delivery by bicycle, in a compartment behind the bicyclist.

1144 The Board may adopt such regulations as it reasonably deems necessary to implement the
1145 provisions of this section. Such regulations shall include provisions that require ~~(1)~~ (A) the recipient to
1146 demonstrate, upon delivery, that he is at least 21 years of age and ~~(2)~~ (B) the recipient to sign an electronic
1147 or paper form or other acknowledgement of receipt as approved by the Board.

1148 G. In addition to other applicable requirements set forth in this section, the following provisions
1149 shall apply to the sale of mixed beverages for off-premises consumption and the delivery of mixed
1150 beverages pursuant to this section:

1151 1. ~~Mixed beverages shall not be sold for off-premises consumption or delivered after 11:00 p.m.~~
1152 ~~or before 6:00 a.m.;~~

1153 ~~2.~~ No distiller shall sell for off-premises consumption or deliver more than two mixed beverages
1154 at any one time, and no mixed beverage restaurant or limited mixed beverage restaurant licensee may sell
1155 for off-premises consumption or deliver more than four mixed beverages at any one time;

1156 ~~3-2.~~ All mixed beverages sold for off-premises consumption or delivered by a mixed beverage
1157 restaurant or limited mixed beverage restaurant licensee shall contain at least one mixer ~~and have a~~
1158 ~~maximum combined volume of 16 ounces; and~~

1159 ~~4-3.~~ Mixed beverage restaurant and limited mixed beverage restaurant licensees shall serve at least
1160 one meal with every two mixed beverages sold for off-premises consumption or delivered; ~~and~~

1161 ~~5.~~ Mixed beverages sold for off-premises consumption or delivered shall be in single original metal
1162 cans or in glass, paper, plastic, or similar disposable containers that include a secure lid, cap, or similar
1163 closure that prevents the mixed beverage from being consumed without removal of such lid, cap, or similar
1164 closure.

1165 The Board may summarily revoke a licensee's privileges to sell or deliver mixed beverages for off-
1166 premises consumption for noncompliance with the provisions of this section or § 4.1-225 or 4.1-325. Any
1167 summary revocation by the Board pursuant to this paragraph (i) shall not be subject to the provisions of §
1168 4.1-227, (ii) shall not be subject to appeal, and (iii) shall become effective upon personal service of the
1169 notice of summary revocation to the licensee or upon the fourth business day after such notice is mailed
1170 to the licensee's residence or the address listed for the licensed premises on the initial license application.

1171 H. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each
1172 delivery of wine, beer, or mixed beverages by a licensee or permittee shall constitute a sale in Virginia.
1173 The licensee or permittee shall collect the taxes due to the Commonwealth and remit any excise taxes
1174 monthly to the Authority and any sales taxes to the Department of Taxation, if such taxes have not already
1175 been paid.

1176 I. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises
1177 consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board regulation.
1178 The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg registration
1179 seal" means any document, stamp, declaration, seal, decal, sticker, or device that is approved by the Board,

1180 designed to be affixed to kegs, and displays a registration number and such other information as may be
1181 prescribed by the Board.

1182 **§ 4.1-212.1. (Effective July 1, 2022) Delivery of wine and beer; kegs; regulations of Board.**

1183 A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is
1184 authorized to engage in the retail sale of wine or beer for off-premises consumption may deliver the brands
1185 of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers
1186 to consumers within the Commonwealth for personal off-premises consumption.

1187 B. Any person licensed to sell wine and beer at retail for off-premises consumption in the
1188 Commonwealth, and who is not a brewery, winery, or farm winery, may deliver the brands of beer, wine,
1189 and farm wine it is authorized to sell in closed containers to consumers within the Commonwealth for
1190 personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries
1191 may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises
1192 where such person has electronically ordered beer, wine, or farm wine in advance of the delivery or (ii)
1193 such other locations as may be permitted by Board regulation.

1194 C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail
1195 for off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery,
1196 may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm
1197 wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the
1198 Commonwealth for personal off-premises consumption.

1199 D. All such deliveries shall be to consumers within the Commonwealth for personal consumption
1200 only and not for resale. All such deliveries of beer, wine, or farm wine shall be performed by either (i) the
1201 owner or any ~~agent~~, officer, director, shareholder, or employee of the licensee or permittee or (ii) ~~an~~
1202 ~~independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has entered~~
1203 ~~into a written agreement with the independent contractor establishing that the licensee or permittee shall~~
1204 ~~be vicariously a third-party delivery licensee pursuant to § 4.1-212.2. The licensee performing the delivery~~
1205 shall be liable for any administrative violations of this section or § 4.1-304 committed by the independent
1206 ~~contractor relating to any deliveries of beer, wine, or farm wine made on behalf of the licensee or permittee~~

1207 ~~and (b) only~~ during transport through completion of the delivery. Alcoholic beverages shall not be
1208 delivered after 11:00 p.m. or before 6:00 a.m. Only one individual ~~takes~~ may take possession of the beer,
1209 wine, or farm wine during the course of the delivery. No more than four cases of wine nor more than four
1210 cases of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be
1211 lawfully sold, except that the licensee or permittee may deliver more than four cases of wine or more than
1212 four cases of beer if he notifies the Authority in writing at least one business day in advance of any such
1213 delivery, which notice contains the name and address of the intended recipient. Except as otherwise
1214 provided in this subtitle, wine or beer sold for off-premises consumption or delivered pursuant to this
1215 section that are not in the manufacturer's original sealed container shall (a) be enclosed in a container that
1216 has no straw holes or other openings and is sealed in a manner that allows a person to readily discern
1217 whether the container has been opened or tampered with subsequent to its original closure; (b) display the
1218 name of the licensee from which the wine or beer was purchased; (c) be clearly marked with the phrase
1219 "contains alcoholic beverages"; (d) have a maximum volume of 16 ounces per beverage; and (e) during
1220 delivery, be stored (1) in the trunk of the vehicle, (2) in an area that is rear of the driver's seat, (3) in a
1221 locked container or compartment, or (4) in the case of delivery by bicycle, in a compartment behind the
1222 bicyclist.

1223 The Board may adopt such regulations as it reasonably deems necessary to implement the
1224 provisions of this section. Such regulations shall include provisions that require ~~(1)~~ (A) the recipient to
1225 demonstrate, upon delivery, that he is at least 21 years of age and ~~(2)~~ (B) the recipient to sign an electronic
1226 or paper form or other acknowledgement of receipt as approved by the Board.

1227 E. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each
1228 delivery of wine or beer by a licensee or permittee shall constitute a sale in Virginia. The licensee or
1229 permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the
1230 Authority and any sales taxes to the Department of Taxation, if such taxes have not already been paid.

1231 F. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises
1232 consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board regulation.
1233 The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg registration

1234 seal" means any document, stamp, declaration, seal, decal, sticker, or device that is approved by the Board,
1235 designed to be affixed to kegs, and displays a registration number and such other information as may be
1236 prescribed by the Board.

1237 **§ 4.1-212.2. Third-party deliveries; limitations; penalties.**

1238 A. For the purposes of this section, "delivery personnel" means any employee, agent, or
1239 independent contractor of the third-party delivery licensee that engages in direct-to-consumer alcoholic
1240 beverage delivery on behalf of the third-party delivery licensee.

1241 B. A third-party delivery license shall authorize the licensee to deliver alcoholic beverages to a
1242 consumer pursuant to an order for such alcoholic beverages placed with a licensee vested with delivery
1243 privileges. Except as otherwise permitted under § 4.1-212.1, no person shall provide alcoholic beverage
1244 delivery services in the Commonwealth unless such person holds a third-party delivery license and is
1245 registered with the State Corporation Commission. All deliveries of alcoholic beverages by a third-party
1246 delivery licensee shall comply with the following: (i) alcoholic beverages shall be delivered only to
1247 persons who are 21 years of age or older and have provided valid identification that provides bona fide
1248 evidence of legal age, as prescribed in § 4.1-304; (ii) the third-party delivery licensee shall verify at the
1249 time of delivery that the recipient is 21 years of age or older, ensure that the recipient's identification bears
1250 a photograph that reasonably appears to match the appearance of the recipient, and record the recipient's
1251 name and date of birth and the address to which the alcoholic beverages were delivered; (iii) alcoholic
1252 beverages shall not be delivered to any person whom the third-party delivery licensee knows or has reason
1253 to believe is intoxicated; (iv) except for deliveries made on behalf of the Authority, alcoholic beverages
1254 shall be delivered only for personal use and not for resale; (v) alcoholic beverages shall not be delivered
1255 to a correctional facility, a reformatory, a locker mailbox, a package shipping or storage facility, a retail
1256 licensee, or undergraduate housing at an institution of higher education; (vi) any alcoholic beverage that
1257 cannot be lawfully delivered shall be promptly returned to the licensed establishment at which the
1258 alcoholic beverage was purchased; (vii) only alcoholic beverages obtained directly from the licensed
1259 establishment with which the order was placed may be delivered; and (viii) the provisions of § 4.1-212.1

1260 and any other requirements imposed on the delivery of alcoholic beverages by this subtitle or Board
1261 regulation.

1262 C. In addition to the application requirements set forth in § 4.1-230 and any regulations or
1263 requirements adopted pursuant thereto, third-party delivery licensees shall provide to the Board, at the
1264 time of application and annually thereafter or as otherwise required by the Board, written certification that
1265 the third-party delivery licensee is in compliance with all applicable requirements set forth in Article 2 (§
1266 46.2-2141 et seq.) of Chapter 21 of Title 46.2. Third-party delivery licensees shall also provide to the
1267 Board, upon request, a copy of any contracts entered into by the licensee with any person offering
1268 alcoholic beverages for delivery.

1269 D. Third-party delivery licensees shall provide to the Board, at the time of application and annually
1270 thereafter or as otherwise required by the Board, written certification that all delivery personnel (i) prior
1271 to delivering alcoholic beverages and annually thereafter, have completed and passed with a score of no
1272 less than 80 percent a Board-approved public safety course; (ii) are 21 years of age or older; (iii) have a
1273 valid driver's license, vehicle inspection, and vehicle registration; (iv) within the last seven years, have
1274 not been convicted of any of the following offenses under Virginia law or a substantially similar ordinance
1275 or law in any other jurisdiction: driving under the influence in violation of § 18.2-266 or 46.2-341.24 or a
1276 violation of § 4.1-304, 18.2-36.1, 18.2-51.4, 18.2-95, 18.2-357.1, or 46.2-894; (v) within the last three
1277 years, have not been convicted of more than three vehicle moving violations; and (vi) are not required to
1278 register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et
1279 seq.) of Title 9.1 or listed on the U.S. Department of Justice's National Sex Offender Public Website.

1280 E. Any person who violates the provisions of this section shall be required to pay (i) \$2,500 for a
1281 first violation and (ii) \$5,000 for any second or subsequent violation. The penalties provided under this
1282 subsection may be imposed in addition to or without imposing any other penalties or actions provided by
1283 law.

1284 F. Notwithstanding subsection B, a third-party delivery licensee may deliver alcoholic beverages
1285 to a retail licensee if such alcoholic beverages are being delivered on behalf of the Authority.

1286 **§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.**

1287 A. Every person intending to apply for any license authorized by this chapter shall file with the
1288 Board an application on forms provided by the Board and a statement in writing by the applicant swearing
1289 and affirming that all of the information contained therein is true.

1290 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain
1291 a food establishment permit from the Department of Health or an inspection by the Department of
1292 Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a
1293 pending application for such permit, or proof of a pending request for such inspection. If the applicant
1294 provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof
1295 of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on
1296 the basis of a pending application or inspection, such license shall authorize the licensee to purchase
1297 alcoholic beverages in accordance with the provisions of this title; however, the licensee shall not sell or
1298 serve alcoholic beverages until a permit is issued or an inspection is completed.

1299 B. In addition, each applicant for a license under the provisions of this chapter, except applicants
1300 for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine
1301 and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of
1302 Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with
1303 the Board on the front door of the building, place, or room where he proposes to engage in such business
1304 for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such
1305 information as required by the Board, including a statement that any objections shall be submitted to the
1306 Board not more than 30 days following initial publication of the notice required pursuant to this
1307 subsection.

1308 The applicant shall also cause notice to be published at least once a week for two consecutive
1309 weeks in a newspaper published in or having a general circulation in the county, city, or town wherein
1310 such applicant proposes to engage in such business. Such notice shall contain such information as required
1311 by the Board, including a statement that any objections to the issuance of the license be submitted to the
1312 Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and

1313 beer shipper's licensees, third-party delivery licensees, delivery permittees, or operators of boats, dining
1314 cars, buffet cars, club cars, buses, and airplanes, the posting and publishing of notice shall not be required.

1315 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club
1316 events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts
1317 venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal
1318 history records search, which may include a fingerprint-based national criminal history records search, on
1319 each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a
1320 criminal history records search and completed personal data form for officers, directors, nonmanaging
1321 members, or limited partners of any applicant corporation, limited liability company, or limited
1322 partnership.

1323 Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall
1324 notify the local governing body of each license application through the county or city attorney or the chief
1325 law-enforcement or administrative officer of the locality. Local governing bodies shall submit objections
1326 to the granting of a license within 30 days of the filing of the application.

1327 C. Each applicant shall pay the required application fee at the time the application is filed. Each
1328 license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus
1329 the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the
1330 Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of
1331 Investigation or the Central Criminal Records Exchange for each criminal history records search required
1332 by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the
1333 application fee shall be \$15. The application fee for banquet special event and mixed beverage special
1334 event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant
1335 to § 4.1-231.1 and shall not be refunded.

1336 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however,
1337 all licensees shall file and maintain with the Board a current, accurate record of the information required
1338 by the Board pursuant to subsection A and notify the Board of any changes to such information in
1339 accordance with Board regulations.

1340 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the
1341 Board. Such permits shall confer upon their holders no authority to make solicitations in the
1342 Commonwealth as otherwise provided by law.

1343 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section
1344 for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied
1345 by the number of months for which the permit is granted.

1346 F. The Board shall have the authority to increase state license fees from the amounts set forth in §
1347 4.1-231.1 as it was in effect on January 1, 2022. The Board shall set the amount of such increases on the
1348 basis of the consumer price index and shall not increase fees more than once every three years. Prior to
1349 implementing any state license fee increase, the Board shall provide notice to all licensees and the general
1350 public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any
1351 license affected by the Board's proposed fee increases. Such notice shall be provided on or before
1352 November 1 in any year in which the Board has decided to increase state license fees, and such increases
1353 shall become effective July 1 of the following year.

1354 **§ 4.1-231.1. Fees on state licenses.**

1355 A. (Contingent expiration date) The annual fees on state licenses shall be as follows:

1356 1. Manufacturer licenses. For each:

1357 a. Distiller's license and limited distiller's license, if not more than 5,000 gallons of alcohol or
1358 spirits, or both, manufactured during the year in which the license is granted, \$490; if more than 5,000
1359 gallons but not more than 36,000 gallons manufactured during such year, \$2,725; and if more than 36,000
1360 gallons manufactured during such year, \$4,060;

1361 b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured
1362 during the year in which the license is granted, \$380; if not more than 10,000 barrels of beer manufactured
1363 during the year in which the license is granted, \$2,350; and if more than 10,000 barrels manufactured
1364 during such year, \$4,690;

1365 c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which
1366 the license is granted, \$215, and if more than 5,000 gallons manufactured during such year, \$4,210;

- 1367 d. Farm winery license, \$245 for any Class A license and \$4,730 for any Class B license;
- 1368 e. Wine importer's license, \$460; and
- 1369 f. Beer importer's license, \$460.
- 1370 2. Wholesale licenses. For each:
 - 1371 a. (1) Wholesale beer license, \$1,005 for any wholesaler who sells 300,000 cases of beer a year or
 - 1372 less, \$1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a
 - 1373 year, and \$2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and
 - 1374 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall
 - 1375 be the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the
 - 1376 license;
 - 1377 b. (1) Wholesale wine license, \$240 for any wholesaler who sells 30,000 gallons of wine or less
 - 1378 per year, \$1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
 - 1379 gallons of wine per year, \$1,845 for any wholesaler who sells more than 150,000 but not more than
 - 1380 300,000 gallons of wine per year, and \$2,400 for any wholesaler who sells more than 300,000 gallons of
 - 1381 wine per year; and
 - 1382 (2) Wholesale wine license, including that granted pursuant to subdivision 3 of § 4.1-206.2,
 - 1383 applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision
 - 1384 b (1), multiplied by the number of separate locations covered by the license.
- 1385 3. Retail licenses — mixed beverage. For each:
 - 1386 a. Mixed beverage restaurant license, granted to persons operating restaurants, including
 - 1387 restaurants located on premises of and operated by hotels or motels, or other persons:
 - 1388 (1) With a seating capacity at tables for up to 100 persons, \$1,050;
 - 1389 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,495;
 - 1390 (3) With a seating capacity at tables for more than 150 persons but not more than 500 persons,
 - 1391 \$1,980;
 - 1392 (4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons,
 - 1393 \$2,500; and

- 1394 (5) With a seating capacity at tables for more than 1,000 persons, \$3,100;
- 1395 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
- 1396 private, nonprofit clubs:
 - 1397 (1) With an average yearly membership of not more than 200 resident members, \$1,250;
 - 1398 (2) With an average yearly membership of more than 200 but not more than 500 resident members,
 - 1399 \$2,440; and
 - 1400 (3) With an average yearly membership of more than 500 resident members, \$3,410;
- 1401 c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a
- 1402 casino gaming establishment, \$3,100 plus an additional \$5 for each gaming station located on the premises
- 1403 of the casino gaming establishment;
- 1404 d. Mixed beverage caterer's license, \$1,990;
- 1405 e. Mixed beverage limited caterer's license, \$550;
- 1406 f. Mixed beverage carrier license:
 - 1407 (1) \$520 for each of the average number of dining cars, buffet cars, or club cars operated daily in
 - 1408 the Commonwealth by a common carrier of passengers by train;
 - 1409 (2) \$910 for each common carrier of passengers by boat;
 - 1410 (3) \$520 for each common carrier of passengers by bus; and
 - 1411 (4) \$2,360 for each license granted to a common carrier of passengers by airplane;
- 1412 g. Annual mixed beverage motor sports facility license, \$630;
- 1413 h. Limited mixed beverage restaurant license:
 - 1414 (1) With a seating capacity at tables for up to 100 persons, \$945;
 - 1415 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,385; and
 - 1416 (3) With a seating capacity at tables for more than 150 persons, \$1,875;
- 1417 i. Annual mixed beverage performing arts facility license, \$630;
- 1418 j. Bed and breakfast license, \$100;
- 1419 k. Museum license, \$260;
- 1420 l. Motor car sporting event facility license, \$300;

- 1421 m. Commercial lifestyle center license, \$300;
- 1422 n. Mixed beverage port restaurant license, \$1,050; and
- 1423 o. Annual mixed beverage special events license, \$630.
- 1424 4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and
1425 beer license, \$450.
- 1426 5. Retail licenses — off-premises wine and beer. For each:
- 1427 a. Retail off-premises wine and beer license, \$300;
- 1428 b. Gourmet brewing shop license, \$320; and
- 1429 c. Confectionery license, \$170.
- 1430 6. Retail licenses — banquet, special event, and tasting licenses.
- 1431 a. Per-day event licenses. For each:
- 1432 (1) Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by
1433 the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
- 1434 (2) Mixed beverage special events license, \$45 for each day of each event;
- 1435 (3) Mixed beverage club events license, \$35 for each day of each event; and
- 1436 (4) Tasting license, \$40.
- 1437 b. Annual licenses. For each:
- 1438 (1) Annual banquet license, \$300;
- 1439 (2) Banquet facility license, \$260;
- 1440 (3) Designated outdoor refreshment area license, \$300. However, for any designated outdoor
1441 refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$3,000;
- 1442 (4) Annual mixed beverage banquet license, \$630;
- 1443 (5) Equine sporting event license, \$300; and
- 1444 (6) Annual arts venue event license, \$300.
- 1445 7. Retail licenses — marketplace. For each marketplace license, \$1,000.
- 1446 8. Retail licenses — shipper, bottler, and related licenses. For each:
- 1447 a. Wine and beer shipper's license, \$230;

1448 b. Internet wine and beer retailer license, \$240;
1449 c. Bottler license, \$1,500;
1450 d. Fulfillment warehouse license, \$210; ~~and~~
1451 e. Marketing portal license, \$285; and
1452 f. Third-party delivery license, \$7,500, unless the licensee provides written certification to the
1453 Board that the licensee has no more than 25 delivery personnel, including employees, agents, and
1454 independent contractors that engage in direct-to-consumer alcoholic beverage delivery, in which case the
1455 license fee shall be \$2,500.

1456 9. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
1457 imposed by this section on the license for which the applicant applied.

1458 B. The tax on each license granted or reissued for a period other than 12, 24, or 36 months shall
1459 be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by
1460 the number of months in the license period, and then increased by five percent. Such tax shall not be
1461 refundable, except as provided in § 4.1-232.

1462 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
1463 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
1464 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
1465 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
1466 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license
1467 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the
1468 liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale
1469 merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be
1470 disregarded.

1471 D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license
1472 purchased in person from the Board if such license is available for purchase online.

1473 **§ 18.2-323.1. Drinking while operating a motor vehicle; possession of open container while**
1474 **operating a motor vehicle and presumption; penalty.**

1475 A. It ~~shall be~~ is unlawful for any person to consume an alcoholic beverage while driving a motor
1476 vehicle upon a public highway of ~~this~~ the Commonwealth.

1477 B. A. Unless the driver is delivering alcoholic beverages in accordance with the provisions of §
1478 4.1-212.1, a rebuttable presumption that the driver has consumed an alcoholic beverage in violation of
1479 this section shall be created if (i) an open container is located within the passenger area of the motor
1480 vehicle, (ii) the alcoholic beverage in the open container has been at least partially removed, and (iii) the
1481 appearance, conduct, odor of alcohol, speech, or other physical characteristic of the driver of the motor
1482 vehicle may be reasonably associated with the consumption of an alcoholic beverage.

1483 C. For the purposes of this section:

1484 "Open container" means any vessel containing an alcoholic beverage, except the originally sealed
1485 manufacturer's container.

1486 "Passenger area" means the area designed to seat the driver of any motor vehicle, any area within
1487 the reach of the driver, including an unlocked glove compartment, and the area designed to seat
1488 passengers. ~~This term shall~~ "Passenger area" does not include the trunk of any passenger vehicle, the area
1489 behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle, or any
1490 similar vehicle, the living quarters of a motor home, or the passenger area of a motor vehicle designed,
1491 maintained, or used primarily for the transportation of persons for compensation, including a bus, taxi, or
1492 limousine, while engaged in the transportation of such persons.

1493 C. A violation of this section is punishable as a Class 4 misdemeanor.

1494 **2. That the second enactment of Chapter 281 and the second enactment of Chapter 282 of the Acts**
1495 **of Assembly of 2021, Special Session I, are amended and reenacted as follows:**

1496 **2. That the provisions of this act shall expire on July 1, ~~2022~~ 2024.**

1497 **3. That the Virginia Alcoholic Beverage Control Authority shall collect data regarding the**
1498 **compliance of third-party delivery licensees with the provisions of this act and report such data to**
1499 **the Chairmen of the House Committee on General Laws and the Senate Committee on**
1500 **Rehabilitation and Social Services by November 1, 2023.**

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